

AMENDED IN SENATE JUNE 18, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1113

Introduced by Assembly Member Frazier

February 22, 2013

An act to amend Section 12814.6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1113, as amended, Frazier. Provisional driver's licenses: restrictions.

The Brady-Jared Teen Driver Safety Act of 1997 allows for the issuance of a driver's license to an applicant who is at least 16 years of age but under 18 years of age pursuant to the provisional licensing program. Existing law requires a person to have held an instruction permit for at least 6 months prior to applying for a provisional driver's license. A person licensed under this program is prohibited during the first 12 months after issuance of a license from driving during the hours of 11 p.m. and 5 a.m. or from transporting passengers who are under 20 years of age, subject to specified exceptions. Under existing law, a violation of these provisions is an infraction.

This bill would require that the restrictions on a person licensed under the provisional licensing program continue for the duration of the provisional license, and would additionally prohibit the licensee from driving between the hours of 10 p.m. and 5 a.m. or transporting passengers who are under 21 years of age, except as specified. The bill would require a person to have held an instruction permit for at least 9

months prior to applying for a provisional driver's license. *The bill would prohibit the Department of Motor Vehicles from issuing a provisional driver's license if the applicant has been convicted of any offense relating to the use or operation of a motor vehicle for a period of 6 consecutive months prior to applying for a provisional driver's license, as provided.*

By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Teenagers have the highest crash rate of any group in the
4 United States and are four times more likely to be involved in a
5 crash than adult drivers.

6 (b) In 2009, there were 476 fatalities in crashes that involved
7 teen drivers and, according to a report done by the National Safety
8 Council, 133 lives and \$910,000,000 could be saved if California
9 implemented the graduated driver licensing requirements specified
10 in the federal Moving Ahead for Progress in the 21st Century Act
11 (Public Law 112-141).

12 SEC. 2. Section 12814.6 of the Vehicle Code is amended to
13 read:

14 12814.6. (a) Except as provided in Section 12814.7, a driver's
15 license issued to a person at least 16 years of age but under 18
16 years of age shall be issued pursuant to the provisional licensing
17 program contained in this section. The program shall consist of
18 all of the following components:

19 (1) Upon application for an original license, the applicant shall
20 be issued an instruction permit pursuant to Section 12509. A person
21 who has in his or her immediate possession a valid permit issued
22 pursuant to Section 12509 may operate a motor vehicle, other than

a motorcycle or motorized bicycle, only when the person is either taking the driver training instruction referred to in paragraph (3) or practicing that instruction, provided the person is accompanied by, and is under the immediate supervision of, a California licensed driver 25 years of age or older whose driving privilege is not on probation. The age requirement of this paragraph does not apply if the licensed driver is the parent, spouse, or guardian of the permit holder or is a licensed or certified driving instructor.

(2) (A) The person shall hold an instruction permit for not less than nine months prior to applying for a provisional driver's license.

(B) *The department shall not issue a provisional driver's license if, during the six consecutive months immediately prior to the expiration of the permit, the applicant has been convicted of an offense relating to the use or operation of a motor vehicle, including, but not limited to, driving while intoxicated, reckless driving, driving without wearing a seatbelt, speeding, prohibited use of a wireless communication device, or a violation of the provisions of the permit.*

(3) The person shall have complied with one of the following:

(A) Satisfactory completion of approved courses in automobile driver education and driver training maintained pursuant to provisions of the Education Code in any secondary school of California, or equivalent instruction in a secondary school of another state.

(B) Satisfactory completion of an integrated driver education and training program that is approved by the department and conducted by a driving instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5. The program shall utilize segmented modules, whereby a portion of the educational instruction is provided by, and then reinforced through, specific behind-the-wheel training before moving to the next phase of driver education and training. The program shall contain a minimum of 30 hours of classroom instruction and six hours of behind-the-wheel training.

(C) Satisfactory completion of six hours or more of behind-the-wheel instruction by a driving school or an independent driving instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5 and either an accredited course in automobile driver education in any secondary school of California

1 pursuant to provisions of the Education Code or satisfactory
2 completion of equivalent professional instruction acceptable to
3 the department. To be acceptable to the department, the
4 professional instruction shall meet minimum standards to be
5 prescribed by the department, and the standards shall be at least
6 equal to the requirements for driver education and driver training
7 contained in the rules and regulations adopted by the State Board
8 of Education pursuant to the Education Code. A person who has
9 complied with this subparagraph shall not be required by the
10 governing board of a school district to comply with subparagraph
11 (A) in order to graduate from high school.

12 (D) Except as provided under subparagraph (B), a student may
13 not take driver training instruction, unless he or she has
14 successfully completed driver education.

15 (4) The person shall complete 50 hours of supervised driving
16 practice prior to the issuance of a provisional license, which is in
17 addition to any other driver training instruction required by law.
18 Not less than 10 of the required practice hours shall include driving
19 during darkness, as defined in Section 280. Upon application for
20 a provisional license, the person shall submit to the department
21 the certification of a parent, spouse, guardian, or licensed or
22 certified driving instructor that the applicant has completed the
23 required amount of driving practice and is prepared to take the
24 department's driving test. A person without a parent, spouse,
25 guardian, or who is an emancipated minor, may have a licensed
26 driver 25 years of age or older or a licensed or certified driving
27 instructor complete the certification. This requirement does not
28 apply to motorcycle practice.

29 (5) The person shall successfully complete an examination
30 required by the department. Before retaking a test, the person shall
31 wait for not less than one week after failure of the written test and
32 for not less than two weeks after failure of the driving test.

33 (b) Except as provided in Section 12814.7, the provisional
34 driver's license shall be subject to all of the following restrictions:

35 (1) Except as specified in paragraph (2), the licensee may not
36 do any of the following unless accompanied and supervised by a
37 licensed driver who is the licensee's parent or guardian, a licensed
38 driver who is 25 years of age or older, or a licensed or certified
39 driving instructor:

40 (A) Drive between the hours of 10 p.m. and 5 a.m.

1 (B) Transport passengers who are under 21 years of age.

2 (2) A licensee may drive between the hours of 10 p.m. and 5
3 a.m. or transport an immediate family member without being
4 accompanied and supervised by a licensed driver who is the
5 licensee's parent or guardian, a licensed driver who is 25 years of
6 age or older, or a licensed or certified driving instructor, in the
7 following circumstances:

8 (A) Medical necessity of the licensee when reasonable
9 transportation facilities are inadequate and operation of a vehicle
10 by a minor is necessary. The licensee shall keep in his or her
11 possession a signed statement from a physician familiar with the
12 condition, containing a diagnosis and probable date when sufficient
13 recovery will have been made to terminate the necessity.

14 (B) Schooling or school-authorized activities of the licensee
15 when reasonable transportation facilities are inadequate and
16 operation of a vehicle by a minor is necessary. The licensee shall
17 keep in his or her possession a signed statement from the school
18 principal, dean, or school staff member designated by the principal
19 or dean, containing a probable date that the schooling or
20 school-authorized activity will have been completed.

21 (C) Employment necessity of the licensee when reasonable
22 transportation facilities are inadequate and operation of a vehicle
23 by a minor is necessary. The licensee shall keep in his or her
24 possession a signed statement from the employer, verifying
25 employment and containing a probable date that the employment
26 will have been completed.

27 (D) Necessity of the licensee or the licensee's immediate family
28 member when reasonable transportation facilities are inadequate
29 and operation of a vehicle by a minor is necessary to transport the
30 licensee or the licensee's immediate family member. The licensee
31 shall keep in his or her possession a signed statement from a parent
32 or legal guardian verifying the reason and containing a probable
33 date that the necessity will have ceased.

34 (E) The licensee is an emancipated minor.

35 (c) A law enforcement officer shall not stop a vehicle for the
36 sole purpose of determining whether the driver is in violation of
37 the restrictions imposed under subdivision (b).

38 (d) A law enforcement officer shall not stop a vehicle for the
39 sole purpose of determining whether a driver who is subject to the
40 license restrictions in subdivision (b) is in violation of Article 2.5

(commencing with Section 118947) of Chapter 4 of Part 15 of Division 104 of the Health and Safety Code.

(e) (1) Upon a finding that any licensee has violated paragraph (1) of subdivision (b), the court shall impose one of the following:

(A) Not less than eight hours nor more than 16 hours of community service for a first offense and not less than 16 hours nor more than 24 hours of community service for a second or subsequent offense.

(B) A fine of not more than thirty-five dollars (\$35) for a first offense and a fine of not more than fifty dollars (\$50) for a second or subsequent offense.

(2) If the court orders community service, the court shall retain jurisdiction until the hours of community service have been completed.

(3) If the hours of community service have not been completed within 90 days, the court shall impose a fine of not more than thirty-five dollars (\$35) for a first offense and not more than fifty dollars (\$50) for a second or subsequent offense.

(f) A conviction of paragraph (1) of subdivision (b), when reported to the department, may not be disclosed as otherwise specified in Section 1808 or constitute a violation point count value pursuant to Section 12810.

(g) Any term of restriction or suspension of the driving privilege imposed on a person pursuant to this subdivision shall remain in effect until the end of the term even though the person becomes 18 years of age before the term ends.

(1) The driving privilege shall be suspended when the record of the person shows one or more notifications issued pursuant to Section 40509 or 40509.5. The suspension shall continue until any notification issued pursuant to Section 40509 or 40509.5 has been cleared.

(2) A 30-day restriction shall be imposed when a driver's record shows a violation point count of two or more points in 12 months, as determined in accordance with Section 12810. The restriction shall require the licensee to be accompanied by a licensed parent, spouse, guardian, or other licensed driver 25 years of age or older, except when operating a class M vehicle, or so licensed, with no passengers aboard.

(3) A six-month suspension of the driving privilege and a one-year term of probation shall be imposed whenever a licensee's

1 record shows a violation point count of three or more points in 12
2 months, as determined in accordance with Section 12810. The
3 terms and conditions of probation shall include, but not be limited
4 to, both of the following:

5 (A) The person shall violate no law which, if resulting in
6 conviction, is reportable to the department under Section 1803.

7 (B) The person shall remain free from accident responsibility.

8 (h) Whenever action by the department under subdivision (g)
9 arises as a result of a motor vehicle accident, the person may, in
10 writing and within 10 days, demand a hearing to present evidence
11 that he or she was not responsible for the accident upon which the
12 action is based. Whenever action by the department is based upon
13 a conviction reportable to the department under Section 1803, the
14 person has no right to a hearing pursuant to Article 3 (commencing
15 with Section 14100) of Chapter 3.

16 (i) The department shall require a person whose driving privilege
17 is suspended or revoked pursuant to subdivision (g) to submit proof
18 of financial responsibility as defined in Section 16430. The proof
19 of financial responsibility shall be filed on or before the date of
20 reinstatement following the suspension or revocation. The proof
21 of financial responsibility shall be maintained with the department
22 for three years following the date of reinstatement.

23 (j) (1) Notwithstanding any other provision of this code, the
24 department may issue a distinctive driver's license, that displays
25 a distinctive color or a distinctively colored stripe or other
26 distinguishing characteristic, to persons at least 16 years of age
27 and older but under 18 years of age, and to persons 18 years of
28 age and older but under 21 years of age, so that the distinctive
29 license feature is immediately recognizable. The features shall
30 clearly differentiate between driver's licenses issued to persons at
31 least 16 years of age or older but under 18 years of age and to
32 persons 18 years of age or older but under 21 years of age.

33 (2) If changes in the format or appearance of driver's licenses
34 are adopted pursuant to this subdivision, those changes may be
35 implemented under any new contract for the production of driver's
36 licenses entered into after the adoption of those changes.

37 (k) The department shall include, on the face of the provisional
38 driver's license, the original issuance date of the provisional
39 driver's license in addition to any other issuance date.

1 *(l)* This section shall be known and may be cited as the
2 Brady-Jared Teen Driver Safety Act of 1997.
3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.